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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,253	09/17/2003	Nancy Kathryn Tedeschi	NT0002	3733
37008	7590	03/14/2006	EXAMINER	
GOODMAN PATENTING, INC. 1187 HILLSIDE AVE, APT. 3B28 NISKAYUNA, NY 12309			HONG, JOHN C	
			ART UNIT	PAPER NUMBER
			3726	

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/664,253

Applicant(s)

TEDESCHI, NANCY KATHRYN

Examiner

John C. Hong

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-9 and 12-19 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-9 and 12-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3,6-9 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Piesker (U.S. Patent 2979089) in view of DE2641786.

Piesker teaches

Piesker teaches ; Regarding Claims 1,2,6,7, an apparatus for fastening an earring, the apparatus comprising: a motor adapted for generating a torque, and an earring back holder (11) adapted for applying the torque to an earring back (4); the earring back holder is removable (col.3, line 24); the motor is electrically operated; the motor is spring (20) operated; further comprising a clutch (12) adapted for limiting the torque; the motor is reversible (19) (Fig. 1; col. 3, lines 10-69)

Piesker fails to teach the motor being spring operated.

'786 teaches a motor being spring operated (Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the motor of Piesker with the motor of '786 so as to produce greater torque.

Piesker teaches Regarding Claim(s) 8,9,12, an apparatus for fastening an earring, the

Art Unit: 3726

apparatus comprising: a motor adapted for generating a torque; and an earring back holder adapted for applying the torque to an earring back, and a clutch (7) adapted for limiting the torque the earring back holder being removable; the motor is spring operated; further comprising a clutch adapted for limiting the torque (Fig. 1; col. 3, lines 10-69) .

Piesker fails to teach the motor being electrically operated.

‘786 teaches a motor being spring operated (Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the motor of Piesker with the motor of ‘786 so as to produce greater torque.

It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham, 2 USPQ 2d 1647 (1987)*.

3. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Piesker. Piesker teaches the limitation except the earring back holder is magnetized.

But Official Notice is taken that magnetizing holder part is well known in the art and it is now treated as Applicant's admitted prior art (AAPA) .

4. Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (AAPA) in view of Piesker (U.S. Patent 2979089).

AAPA in the specification page 1, teaches the method of fastening earring back manually, but failed to teach the method of generating a torque using a motor which is electrically operated, spring operated and applying torque to an earring back using an earring back holder which is removable and limiting the torque using a clutch.

Art Unit: 3726

Piesker teaches the method of generating a torque using a motor which is electrically operated, spring operated and applying torque to an earring back using an earring back holder which is removable and limiting the torque using a clutch (Fig. 1; col. 3, lines 10-69)

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to employ the method of Piesker on the method of AAPA so as to easily fasten the earring back without losing it.

Regarding Claim 15, the limitation of the earring back holder is magnetized, Official Notice is taken that magnetizing holder part is well known in the art and It is now treated as Applicant's admitted prior art (AAPA).

Response to Arguments

3. Applicant's arguments with respect to claims 1-3,6-9,12-19 have been considered but are moot in view of the new ground(s) of rejection. See the new Office action.

Regarding Applicant's argument of claims 13-17, the motivation to combine the two references, Piesker's portable battery-energized screw driver is solving the same problem of being independent of any power outlet and maybe used as an ordinary hand tool at any where no power outlet is available and also aiding to the manual work.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

Art Unit: 3726

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John C. Hong whose telephone number is 571-272-4529. The examiner can normally be reached on M-F(07:00-16:30)First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on 571-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John C. Hong
Primary Examiner
Art Unit 3726

jh
March 06, 2006